



**STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF:	)	
	)	
HELEN HERRON,	)	
	)	
Complainant,	)	
	)	Charge No.: 2002CF0765
and	)	EEOC No.:
	)	ALS No.: 11647
ST. PAUL'S HOUSE AND	)	
HEALTH CARE CENTER,	)	
	)	
Respondent.	)	

**RECOMMENDED ORDER AND DECISION**

On November 5, 2001, Complainant, Helen Herron, filed a complaint on her own behalf against Respondent, St. Paul's House and Health Care Center. That complaint alleged that Respondent discriminated against Complainant on the basis of her race when it suspended and discharged her.

At the first status hearing on the case, Complainant confirmed that the initial charge of discrimination was filed on October 9, 2001. As a result of that confirmation, this matter now comes on to be heard on my own motion, *sua sponte*, to dismiss the complaint as untimely.

**FINDINGS OF FACT**

The following facts were derived from the record file in this matter.

1. Complainant filed her initial charge of discrimination

with the Illinois Department of Human Rights (herinafter "the Department") on October 9, 2001.

2. Complainant filed her complaint before the Human Rights Commission on November 5, 2001.

3. There is no indication in the record that the Department has taken any action with regard to Complainant's charge of discrimination.

#### CONCLUSIONS OF LAW

1. Once a charge of discrimination is filed, the Department has 365 days in which to investigate the charge and either to issue and file a complaint or to dismiss the charge and order that no complaint be filed.

2. Complainant has no authority to file her own complaint before the Human Rights Commission until after the expiration of the 365-day investigation period.

3. The complaint in this matter is untimely and the Human Rights Commission has no authority to consider it.

4. The complaint should be dismissed and the matter remanded to the Department for further investigation.

#### DISCUSSION

Complainant, Helen Herron, filed her initial charge of discrimination with the Illinois Department of Human Rights (herinafter "the Department") on October 9, 2001. She then filed her complaint before the Human Rights Commission on November 5, 2001.

Under section 7A-102(G)(1) of the Illinois Human Rights Act, once a charge of discrimination is filed, the Department has 365 days in which to investigate the charge and either to issue and file a complaint or to dismiss the charge and order that no complaint be filed. Within a 30-day window immediately following the expiration of that period (or any extension of that time agreed to in writing by all parties), if the Department has not acted on the charge, a complainant may file his or her own complaint before the Human Rights Commission. 775 ILCS 7A-102(G)(2). In other words, unless the Department has taken action before that time, a complainant may file his or her own complaint during the 30-day period which begins the 366<sup>th</sup> day after his or her charge of discrimination was filed.

In the instant case, it is clear that Complainant has filed her complaint prematurely. Her 30-day filing period has not yet begun. When a complaint is filed before the opening of the appropriate time window, the Human Rights Commission has no authority to consider that complaint. The appropriate remedy is to dismiss the complaint without prejudice to allow the Department to continue its investigation. ***Gosnell and Long John Silver's***, 49 Ill. HRC Rep. 76 (1989). Such a dismissal is appropriate in this case.

#### RECOMMENDATION

Based upon the foregoing, it is clear that the complaint in this matter is premature and that the Human Rights Commission has

no authority to consider it. Accordingly, it is recommended that the complaint be dismissed without prejudice to allow the Department of Human Rights to conduct its investigation of Complainant's charge of discrimination.

HUMAN RIGHTS COMMISSION

BY: \_\_\_\_\_  
MICHAEL J. EVANS  
ADMINISTRATIVE LAW JUDGE  
ADMINISTRATIVE LAW SECTION

ENTERED: January 30, 2002